

REMARKS

Claims 1-98 are pending in this application. As a result of claim amendments and cancellations herein, claims 1-16, 18-48 and 50-98 will be pending in this application.

In the Office Action, the Examiner indicated that claims 1-14, 54-84, 86-89 and 91 have been allowed. Applicants thank the Examiner for his allowance of these claims. The Examiner has objected to claim 54 because of the presence of period marks after the letters that number the steps of the claimed method. Applicants have amended claim 54 herein to delete these period marks.

The Examiner has rejected claims 16, 26-29, 41, 85, 90, and 92, under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In particular, the Examiner states that:

- there is insufficient antecedent basis for the term “the control computer” in claim 16, as claim 23 (not claim 15) establishes a control computer;
- there is insufficient antecedent basis for the term “the focusing lens” in claim 26, as claim 25 (not claim 23) establishes a focusing lens;
- the use of the trademark MATLAB in claims 41 and 90 makes these claims indefinite;
- there is insufficient antecedent basis for the term “the near infrared source” in claim 85, as claims 54 and 57 establish a near infrared source;
- there is insufficient antecedent basis for the term “the microsphere” in claim 92, as claim 91 (not claim 54) establishes a microsphere; and
- claims 27-29 and 85 are rejected for depending on claims rejected as above.

The Examiner has also indicated that claims 29, 41, 85, 90 and 92 would be allowable if rewritten or amended to overcome these rejections under 35 U.S.C. § 112, second paragraph. Applicants thank the Examiner for his indication of allowable subject matter.

In response, Applicants have amended claims 16, 26, 41, 85, 90 and 92 to correct dependencies or to amend language, as required. In particular, Applicants have amended claim 16 to change “control computer” to “processor”, claim 26 to change the dependency from claim 23 to claim 25, claims 41 and 90 to change “MATLAB[®] programming language” to

“programming language having a numeric computing environment”, claim 85 to delete the words “near infrared” and claim 92 to change the dependency from claim 54 to claim 91. Accordingly, Applicants respectfully request that these rejections be withdrawn and that claims 29, 41, 85, 90 and 92 be passed to allowance.

The Examiner has rejected claims 15, 16, 23-28, 30, 32, 34, 36 and 52 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,345,194 B1 (Nelson et al.). According to the Examiner, Nelson et al. disclose all the elements of independent claims 15 and 23. In addition, the Examiner indicated that claims 17-22, 31, 33, 35, 37-40, 42-51, and 53, would be allowable if rewritten in independent form including all the limitations of their base claims and any intervening claims.

In response, Applicants have canceled claim 17 and have amended claim 15 to incorporate the limitations of claim 17, such that claim 15 as amended recites that the source of collimated radiation includes a light source and a monochrometer. The dependency of claim 18 has been changed so that, as amended, it depends from claim 15, which should now be in allowable form. Accordingly, claims 15, 16 and 17-22 should now be in allowable form.

In addition, Applicants have herein canceled claim 49, and have amended claim 23 to incorporate the limitations of claim 49, such that claim 23 as amended claims a three-dimensional spectral imaging system for obtaining image information of a solid pharmaceutical dosage form and is now allowable. As amended, claim 23, as well as claims 24-34, 50, 51 and 53, which all now depend from claim 23, should all be in allowable form. Accordingly, Applicants respectfully request that the Examiner withdraw these rejections.

Applicants have also herein amended claims 35, 37 and 42 to be in independent form including all the limitations of their base claim 23. These claims as amended should be in allowable form. In addition, dependent claims 36, 38-41 and 43-48, and claims 52 and 53 (which have both been amended herein to depend from claim 35), should all now be in allowable form, as they depend from allowable claims. Accordingly, Applicants respectfully request that the Examiner withdraw these rejections.

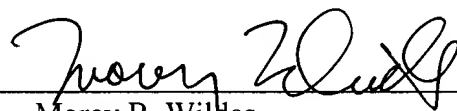
Conclusion

Reconsideration of the present application in view of the current amendments is requested. If, upon review, the Examiner is unable to issue a Notice of Allowance, Applicants respectfully request that the Examiner telephone the undersigned attorney in order to expedite resolution of any outstanding issues and advance the prosecution of the case.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 
Morey B. Wildes
Reg. No. 36,968

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018
(212) 736-1940